

10

1
2
3
4
5
6
7
8
9
10
11

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,
13 Plaintiff,
14 v.
15 JESSE MORENO,
16 Defendant.

CR 95-00345-RSWL-10

**ORDER re: MOTION FOR
COMPASSIONATE RELEASE
[10548]**

19 Currently before the Court is Defendant Jesse
20 Moreno's ("Defendant") Motion to Reduce Sentence
21 Pursuant to 18 U.S.C. § 3582(c)(1)(A) (the "Motion")
22 [10548]. Having reviewed all papers submitted
23 pertaining to this Motion, the Court **NOW FINDS AND RULES**
24 **AS FOLLOWS:** the Court **DENIES** the Motion.

I. BACKGROUND

On May 30, 1997, Defendant was convicted on four counts related to his participation in or involvement with the Mexican Mafia (known also as "La Eme"). J. &

1 Commitment, ECF No. 1838. The four counts involved
2 Defendant's participation in a conspiracy to commit
3 murder in violation of the Racketeer Influenced and
4 Corrupt Organizations Act ("RICO") and Violent Crimes in
5 Aid of Racketeering statute ("VICAR"). First
6 Superseding Indictment, ECF No. 360. The Court
7 sentenced Defendant to life imprisonment. J &
8 Commitment.

9 On July 6, 2017, this Court denied [10486]
10 Defendant's Motion to Vacate, Set Aside, or Correct
11 Sentence Pursuant to 28 U.S.C. § 2255. The Ninth
12 Circuit summarily affirmed [10500] this Court's order on
13 December 17, 2019. Defendant filed the instant Motion
14 [10548] on November 22, 2021, seeking early release due
15 to his age, numerous health conditions, and
16 rehabilitative efforts. The Government opposed [10552]
17 the Motion on December 22, 2021. Defendant replied
18 [10553] on January 6, 2022.

19 II. DISCUSSION

20 A. Legal Standard

21 The First Step Act of 2018, Pub. L. No. 115-391,
22 132 Stat. 5194, permits a defendant to directly petition
23 the district court for a sentence reduction under the
24 compassionate release statute. See 18 U.S.C. §
25 3582(c)(1). Section 3582(c)(1) permits a court to grant
26 a motion for compassionate release where: (1) the
27 defendant has exhausted his administrative remedies; (2)
28 "extraordinary and compelling reasons" warrant a

1 reduction in sentence, which may be found in any
2 applicable policy statements issued by the Sentencing
3 Commission; and (3) the reduction is consistent with the
4 applicable factors set forth in § 3553(a). United
5 States v. Rodriguez, 424 F. Supp. 3d 674, 680 (C.D. Cal.
6 2019) (citations omitted).

7 The Ninth Circuit recently clarified that currently
8 no “applicable policy statements” define what reasons
9 are sufficiently “extraordinary and compelling” to
10 warrant compassionate release when requested by the
11 defendant. United States v. Aruda, 993 F.3d 797, 802
12 (9th Cir. 2021). “The Sentencing Commission’s
13 statements in U.S.S.G. § 1B1.13 may inform a district
14 court’s discretion for § 3582(c)(1)(A) motions filed by
15 a defendant, but they are not binding.” Id.

16 **B. Discussion**

17 The Court need not address whether extraordinary
18 and compelling circumstances exist here because the
19 Court finds that the § 3553(a) factors do not weigh in
20 favor of release. When reviewing a motion for
21 compassionate release, courts are required to consider
22 various factors including: (1) the nature and
23 circumstances of the offense and the history and
24 characteristics of the defendant; (2) the need to
25 reflect the seriousness of the offense, to promote
26 respect for the law, and to provide just punishment for
27 the offense; (3) the need to afford adequate deterrence
28 to criminal conduct; (4) the need to protect the public

1 from further crimes of the defendant; and (5) the need
2 to provide the defendant with needed educational or
3 vocational training, medical care, or other correctional
4 treatment in the most effective manner. 18 U.S.C. §
5 3553(a); 18 U.S.C. § 3582(c).

6 Here, Defendant was convicted of violent crimes
7 involving conspiracies to commit murder in order to
8 further the aims of La Eme. Defendant had agreed, along
9 with his co-conspirators, to lure one of their targets
10 to a La Eme meeting where the target would be murdered.
11 PSR ¶¶ 122-127. Moreover, Defendant had been classified
12 as a career offender due to his prior criminal history,
13 which included a ten-year imprisonment after Defendant
14 robbed a victim at knifepoint. Id. ¶¶ 280, 284. Given
15 the premeditated nature of Defendant's crime and his
16 lengthy criminal history, the Court cannot conclude that
17 Defendant's release is warranted. To hold otherwise
18 would undermine the Court's need "to promote respect for
19 the law," "to provide just punishment for the offense,"
20 and "to afford adequate deterrence to criminal conduct."
21 18 U.S.C. § 3553(a); United States v. Jefferson, No.
22 2:17-cr-00130-MCE, 2021 WL 4033248, at *3 (E.D. Cal.
23 Sept. 3, 2021) (holding that "requiring Defendant to
24 serve his full sentence" was necessary to achieve the
25 aims enumerated in § 3553(a)).

26 Defendant claims that he poses no danger to the
27 community because "persons in his age group are
28 extremely unlikely to commit a crime" and because he is

1 no longer associated with La Eme. See Mot. 17:23-18:8;
2 Reply 3:4-18. However, Defendant presents no evidence
3 that he has cut his ties with La Eme. And “[r]egardless
4 of Defendant’s age, the danger that he poses to the
5 community is not necessarily ‘that he will personally
6 engage in acts of violence, but that he can command
7 others to do so.’” United States v. Shyrock, No. CR 95-
8 345-RSWL-16, 2020 WL 7773887, at *3 (C.D. Cal. Dec. 30,
9 2020) (quoting United States v. Gotti, 433 F. Supp. 3d
10 613, 620 (S.D.N.Y. 2020)). While the Court appreciates
11 Defendant’s rehabilitative efforts and sympathizes with
12 Defendant’s health concerns, the Court cannot conclude
13 that Defendant poses no danger to the community. See
14 United States v. Verdugo, No. 2:14-cr-00341-TLN, 2020 WL
15 5257747, at *2 (E.D. Cal. Sept. 3, 2020).

16 In sum, the severity of Defendant’s criminal
17 conduct, his lengthy criminal history, and the potential
18 danger posed by his release all weigh against
19 compassionate release. See United States v. Bisel, No.
20 10CR5016-H, 2021 WL 3634830, at *5 (S.D. Cal. Aug. 16,
21 2021).

22 **III. CONCLUSION**

23 Based on the foregoing, the Court **DENIES**
24 Defendant’s Motion.

25 **IT IS SO ORDERED.**

26
27 DATED: January 28, 2022

/s/ Ronald S.W. Lew

28
HONORABLE RONALD S.W. LEW
Senior U.S. District Judge